

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
ORDINANCE COMMITTEE
MINUTES OF PUBLIC MEETING**

DATE.....July 15, 2003
TIME.....4:30 P.M.
PLACE.....COUNTY OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

MEMBERS PRESENT

Jan Mills
Karl Rutherford
Steve Schreckengast
Mark Hermodson
Gary Schroeder

STAFF PRESENT

James Hawley
Sallie Fahey
Margy Deverall
Jay Seeger, Atty.

Jan Mills called the meeting to order.

I. APPROVAL OF JULY 2, 2003 MEETING MINUTES

Sallie Fahey informed the Committee that a corrected first page had been provided.

Steve Schreckengast moved to approve the minutes from July 2, 2003. Karl Rutherford seconded and the motion was carried by voice vote.

II.REPORT ON FLOODING:

James Hawley reviewed the flood situation and recapped the upcoming press release. He informed the Committee that the press release would remind flood victims that a building permit would have to be required but that the permit fee would be waived. He explained that the inspectors would have to assess the value of damage against the market value of the building. He stated that if there were more than 50% of damage, which is the statutory standard for substantial damage, then the ordinance and flood plain regulations would prohibit repair of the building. He mentioned that there would be a special phone number specifically for flood questions. He said that the staff would make sure arials were available and set up a table of tax key numbers and market values of the structures.

Steve Schreckengast asked what percentage was within the City limits.

James Hawley stated that approximately, or less than 20% of affected areas were in the City. He said that it was mainly near Wabash Ave and Sycamore Street.

Steve Schreckengast asked if the homes on those streets were always in the flood plain.

James Hawley replied yes.

Steve Schreckengast asked if those homes have ever been improved upon.

James Hawley stated that they should not have been. He mentioned that almost every location has been flooded before.

Steve Schreckengast asked if FEMA has funds to buy out the homes that were more than 50% damaged.

James Hawley explained that 75% of the money would come from FEMA and 25% from local government. He explained that the homes would be demolished; the ground would become permanent open space with a deed restriction that it can never be built on again.

Steve Schreckengast asked who the owner of that land would be.

James Hawley stated either the City or the County would own it.

III. COMPREHENSIVE PLAN LAND USE- ORDINANCE REVISIONS: COMMITMENTS & PRIORITIES:

Sallie Fahey informed the Committee that the first time a list of topics was compiled, it was comprised of issues that would need to come before the Ordinance Committee only. She explained that the current list was comprised of issues that were before the staff in general, either in progress or up coming. She pointed out that on the list anything not in bold has been completed or removed and entails a brief description of conclusion. She mentioned that the new items on the list were: Historic Structures in Lafayette; USO Amendment to allow all subdivisions to be heard by the Executive Committee, USO and UZO Amendments and a map amendment to revise the MR zones near St. Elizabeth Hospital.

James Hawley stated that there is a draft of the Southwest Lafayette zone map that is being reviewed by the City Engineers office. He pointed out that due to an annexation of the City, an insert of Kossuth St. - 9th Street - 300 South – to the West City line should be drafted and included. He explained that within that proposed insert there are apartment complexes in business zones, so the question is how to proceed with those districts.

Mark Hermodson asked what the staff's recommendation for handling that would be.

James Hawley stated that he would recommend, that the staff personally call the owners and ask them if they want to change and then it could just be done with the new map.

Mark Hermodson stated that sounded like an ideal solution.

Steve Schreckengast asked how many apartments were involved.

James Hawley replied that there are four complexes that are in the GB.

Steve Schreckengast mentioned that a multi-family zone seemed more appropriate.

James Hawley said that he could present that possibility to the owners when he calls.

Several members agreed that would be the simplest way to solve the problem.

James Hawley stated that there are two versions of this map, drafted and GIS. He explained that the GIS version did not have the street names on them. He asked if that would be acceptable since the street names were a vital part of the map.

Several members responded affirmatively.

Steve Schreckengast asked if the discussion on the R1Z was included on this list.

Sallie Fahey replied that the R1C and R1Z were accidentally left off the list, but will be added.

Margy Deverall stated that the staff discussed the R1C topic in staff meeting and the consensus was to meet with some of the developers before it was presented to the Ordinance Committee.

Steve Schreckengast asked if that would be under the UZO category.

Sallie Fahey replied affirmatively. She continued to review the list of topics up for discussion. She explained that the zoning map amendments for neighborhoods and corridors that also had an asterisk (*) also need a neighborhood plan to proceed. She mentioned that the only new additions were the St. Lawrence/McCallister and the Miller School/South 2nd Street areas.

Jan Mills asked if these were the last of the neighborhoods, or if there would be more in the future.

Sallie Fahey explained that these were only the neighborhoods that were organized enough to have obtained a Resolution from the Lafayette City Council. She continued to review list of topics and proposed completion dates.

Steve Schreckengast asked for elaboration on the Vision 2020 housing element and if they had requested that review.

Sallie Fahey explained that the Housing Element was a part of the Comprehensive Plan. She stated that Vision 2020 and the City Community Development Departments are in need of that data in order to work on the combined City housing plan. She mentioned that there are other organizations that use this data when applying for grants. She pointed out that of everything in the Comprehensive Plan the Housing Element was one of the most out of date sections.

Steve Schreckengast asked what the goal of the Housing Element is.

Sallie Fahey replied that the goal is to have a plan that ensures housing to satisfy needs of all income levels. She explained that part of this planning process is to analyze the existing stock and all the income levels and determine whether the needs were being met.

James Hawley explained that it would be up to the developers to fill in gaps in the income level that is deficient in stock.

Sallie Fahey pointed out that in addition to the developers, Habitat for Humanity, Lafayette Transitional Housing, Neighborhood Housing Services and Region IV will also have a hand in filling the gaps. She mentioned that changing demographics would also require a review of senior housing needs for all income levels. She informed the Committee that she has been involved in getting the process started and developing a time frame and Margy Deverall will be taking over the actual work on the topic. She continued to review the list of topics.

Jan Mills asked if this list of topics was in priority order.

Sallie Fahey responded negatively. She stated that the only topics that should receive priority were the neighborhoods that have already received Resolutions from the Lafayette City Council.

James Hawley mentioned that the Wallace Triangle was requested so long ago; it could be done simultaneously with two others.

Sallie Fahey stated that even though Hanna and Perrin resolutions were older, they are not as anxious as Wallace.

Steve Schreckengast asked if she was referring to the Kossuth St./State St./9th St. area.

Sallie Fahey responded affirmatively.

James Hawley mentioned that he, Margy Deverall and John Burns met with the Community Redevelopment Committee and they were eager to start the 9th Street Road project.

Karl Rutherford asked if that meant that Wabash Township would be pushed back.

Sallie Fahey and James Hawley responded negatively. They explained that different staff members would be engaged in the different projects.

Sallie Fahey pointed out that she tried to indicate which staff members would be working on each topic, so that projects could be spread out and worked on simultaneously.

Karl Rutherford mentioned the amendment to allow all subdivisions to be heard at the Executive Committee meeting.

Sallie Fahey pointed out that one of the reasons for creating this list was for the Committee to set priorities or policies of priority.

Steve Schreckengast mentioned the topic of different levels of density for R3 zoning.

Sallie Fahey stated that it would be referred to as R3 Light going forward.

Steve Schreckengast mentioned the topic of first floor apartments in NB districts but not CB districts. He pointed out that if business is forced to be on the first floor, it created more problems such as parking. He asked if that topic had been mentioned to the staff.

Sallie Fahey responded negatively.

James Hawley replied that it had been brought up to him. He stated that the issue was whether that type of project would be NB or R3. He said that if it were all residential use, it should be residential zoning. He stated that NB was created for a mix of residential and business, not one or the other.

Karl Rutherford pointed out that if there were a circumstance that called for that type of use that would be ideal for a PD.

Steve Schreckengast stated that he was not relaying the idea properly, and would contact the developer for further elaboration.

James Hawley stated that there were some advocates for it among the Administrative Officers. He stressed that business zones were created for business use.

Jan Mills suggested that the Committee members take time to review the list prioritize them to their preference to present at the next meeting.

There were no objections.

IV. RURAL ESTATE SUBDIVISION PROCEDURE (USO 3.6) CONTINUED DISCUSSION

Sallie Fahey recapped the status and review process of section 3.6 of the Subdivision Ordinance. She reviewed the previously discussed issues and changes.

Karl Rutherford asked for explanation of the timeframes on page 3.

Sallie Fahey explained that the only solution is to adjust other time frames in the chart. She agreed that there should not be an additional 30 days added. She continued to review the previously discussed issues and changes.

Steve Schreckengast asked what the status was for page 7, section (vii).

Jay Seeger explained the issues related to this.

Sallie Fahey stated that the first issue on this topic was if someone wanted to develop at the end of a long-standing parcelization or slider; the second is a developer starting with un-subdivided land and how they would reserve the ability to continue with another development; and the third is what happens with the land at the end of the road if someone else owns that land.

James Hawley mentioned another issue, which was previously raised by Karl Rutherford. He stated that one of the original proposals of the RE was that when there was more than one joined together, the first one had to be public or built to public standards. He said that was omitted from the ordinance that was eventually adopted.

Steve Schreckengast stated that in the sketch plan review process, the staff could determine areas that do not have any access and identify potential problems.

Karl Rutherford mentioned the possibility of a developer converting a lot to a street.

Steve Schreckengast stated that converting a lot to a street would have to be in the covenants.

Sallie Fahey stated that there is precedent from the courts that states covenants specifying residential lots cannot be removed for the purposes of adding a street.

James Hawley stated that it had been done once, and that was because there was 100% consensus to alter the covenant for that lot.

Sallie Fahey pointed out that it was only allowed once, but has been tried several times and denied.

Steve Schreckengast stated that it is important to keep the homeowners notified if there is any potential for future development. He reiterated that the sketch plan would give a lot of clues, especially if there is a stub street.

James Hawley gave several examples of similar situations and explained each circumstance.

Karl Rutherford pointed out that it is probably not a very good idea.

Steve Schreckengast stated that any developer that had any anticipation of extending a stub street, should put that in an outlot and not in an easement. He asked if the staff could suggest an outlot, if there is a stub street on the sketch plan.

Sallie Fahey stated that the staff would have to have that suggestion backed up in the ordinance.

Steve Schreckengast suggested adding that in new RE subdivisions that have a stub street, then the road throughout the entire RE has to either have an outlot or a public road.

James Hawley pointed out that there is no guarantee that a rezone would be approved.

Steve Schreckengast suggested prohibiting the recording of a plat that contains a stub street unless it is converted to an outlot.

Sallie Fahey stated that at this time, every RE street is required to end in a turnaround. She suggested using a subdivision variance not to put in the turnaround if the developer thinks there will be additional development. She clarified that if the RE developer thinks that he is going to continue the development in another request then he could use a subdivision variance not to end the street in a turnaround, but in a stub street. She explained that would eliminate the second development from having the problem of an additional outlot around a stub street in an odd location.

Joseph T. Bumbleburg pointed out that having the turn-around and the ability to build the stub at a future date are both valuable. He stated that the easiest solution would be not to do it as an outlot, but plat it as if it were a residential lot and in the covenant free that lot by number from the restriction that requires it to be residential only. He explained that that would allow it to be either a residential lot or a stub.

Steve Schreckengast asked how other lot owners in the subdivision would be notified.

Sallie Fahey stated that there would be people that would have to be put on notice as well as incorporating design requirements into the ordinance.

Steve Schreckengast mentioned the example of Croxton Woods.

Sallie Fahey reiterated the suggestion that in an all RE development, if there is vacant land adjacent, owned by the developer, then inquiries should be made as to the developer's intention for that land. If there is the likelihood that the RE development would be expanded, would they require the first part to be public.

Steve Schreckengast stated that he was not in favor of that and thought that it could still be a private road.

James Hawley mentioned that if it were a private road, it would have to meet public road standards.

Steve Schreckengast asked if this subject has been discussed previously.

Sallie Fahey stated that it has been discussed but no decision has ever been reached.

Steve Schreckengast asked if there was a limitation on how many extensions could be sought.

Sallie Fahey stated that unlimited extensions could be applied for. She said that the consensus was to review each extension on an individual basis.

Steve Schreckengast pointed out that no matter how much notice the homeowners are given, some one will be surprised. He mentioned that most homeowners would be upset if a road was put in through their easement with no compensation. He stated that a more productive way would be to use an outlot or designate one lot.

Karl Rutherford pointed out that designating one lot might be a problem if the lots were very large. He said that for this purpose the lot might only have to be $\frac{1}{2}$ an acre.

Sallie Fahey agreed. She used the chalkboard to show an example of this situation. She stated that this situation raises the questions as to whether it should be allowed to end in a stub street or whether it has to be public.

Steve Schreckengast stated that he does not think the road should have to be public. He mentioned that in a situation where the road was extremely long, it was more likely that it would be denied on all levels. He pointed out that a turnaround could still be required.

James Hawley suggested looking at this situation in the form of a candelabra, with the road being the center. He said that in this example there could be multiple RE developments which were entered at a single point.

Steve Schreckengast asked if this would be determined through conversations with the developer at the start. He stated that if this were the case the staff could suggest a PD rather than an RE.

James Hawley stated that would be a possibility.

Karl Rutherford mentioned that if there were 3 RE developments being proposed, there would be a great expense in turning them into a PD. He pointed out that at the moment there is not a high success rate with RE developments.

Sallie Fahey stated that the brand new RE developments on never before developed land are generally not a problem.

Steve Schreckengast asked if a RE zone can be conditioned.

Sallie Fahey replied negatively. She said that it is the infill RE developments that are a problem.

James Hawley reiterated that there could be multiple RE s along a bluff with one entrance.

Steve Schreckengast asked if it would be effective in that scenario to require the developer to bring the road up to public standards.

Sallie Fahey stated that it could be suggested, but not forced.

Steve Schreckengast asked if most people were receptive to that type of suggestion.

James Hawley replied negatively.

Sallie Fahey stated that the only advantage to developers to make it a public road would be that they and the homeowners would not be responsible for maintenance.

Steve Schreckengast stated that if a developer wanted to include an easement for access to future lots, he would be in favor of making that an outlot and not an easement.

Sallie Fahey stated it might not be able to be an easement because in the second phase it is already required to be in an outlot. She said that in that case it should be done as an outlot to begin with or as Joseph T. Bumbleburg suggested, as a designated lot. She mentioned that one solution to the designated lot being too big was if all the owners were agreeable, then they could take the part of the lot that they needed for the road and then by exemption E take the remainder of the lot and add it to the lots on either side.

Karl Rutherford pointed out that the requirement is for lots to average 2 acres and the lot would not necessarily have to be that big. He said that in this case it would force the developer to either use it as a road or as a lot. He stated that he liked this suggestion about as good as any.

James Hawley stated that it is a matter of law that property cannot be landlocked and access must be provided to and through any piece of property from whence it came.

Jay Seeger stated that it is not enough to say that there will be a convertible lot at the end of the development. He explained that that would not take away the rights of the original RE owners to say that their easement is overburdened, unless the original private drive had a specific reservation.

Sallie Fahey agreed. She said that this was not the ideal solution for every part of the issue.

Steve Schreckengast asked if an outlot could be overburdened.

Jay Seeger stated that an outlot could not be overburdened. He pointed out that the outlot would be cleaner because they would know up front that the purpose of the outlot was to provide access to future developments.

Steve Schreckengast reiterated that for any access point in an RE subdivision created for the purpose of expanding the subdivision in the future, the road within it, at the very least, has to be an outlot not an easement. He mentioned that he would not change any of the road requirements. He asked for confirmation that this could be determined at the sketch plan meeting.

Sallie Fahey replied affirmatively. She asked for clarification that there are now two options. She said that one option means that the reserved outlot for road purposes is a cleaner and more simple vehicle for the developer than changing the covenant for one lot at the end of a cul-de-sac.

Jay Seeger replied affirmatively.

Jan Mills asked for confirmation that the suggestion was to include both as options.

Sallie Fahey stated that this might not necessarily have to go into the ordinance. She said that these are issues that the developers would have to be aware of and the staff would have to be ready to explain or suggest.

Steve Schreckengast asked if an easement would be possible in a 6-lot RE that had no chance of expansion.

Sallie Fahey replied negatively. She pointed out that the way the ordinance is written, all RE roads have to be in an outlot.

Steve Schreckengast asked if that was a recent change.

Sallie Fahey replied negatively. She said that the easement idea was disbanded before the ordinance was adopted.

Karl Rutherford stated that the whole discussion has been on trying to figure out how it could be allowed.

Sallie Fahey stated that there is never a road in an RE development that is in an easement, but now there are some that are at the end of easements.

Gary Schroeder asked if outlots were taxed separately if a homeowners association would be required to pay those taxes.

Sallie Fahey replied affirmatively. She stated that a homeowners association is required of all RE developments if there are any outlots. She said that if there is a public street, there is no other reason they would have to have one.

Steve Schreckengast pointed out that if the road is in an outlot, not only are there no public services, but taxes have to be paid. He stated that if a new RE has to be in an outlot, there was no point in discussing the stub street being in an outlot.

Sallie Fahey replied affirmatively. She continued to review the previously discussed issues and changes, picking up on page 11, section (vi). She mentioned that in section (vii) there might be some developments that are small enough that restrictive covenants might not be necessary.

James Hawley pointed out that there should be a restrictive covenant stating all lots are to be used for residential purposes only.

Sallie Fahey pointed out that they would not want to do that because the RE zone allows other uses, not just residential.

James Hawley stated that the developer might want to make that restriction.

Sallie Fahey said that they cannot be restricted to residential uses, because the zone allows others.

James Hawley asked for clarification on how that could be worded. He said that that could be primary protection for the new homeowners.

Sallie Fahey asked if that specific covenant should be required in every RE. She pointed out that the same intent was included in the zoning district.

James Hawley stated his opinion that it should be part of the covenant.

Steve Schreckengast stated that the staff should recommend such a covenant.

Sallie Fahey stated that she would research where and when the question of requiring covenants first came up. She continued to review the previously discussed issues and changes.

Steve Schreckengast asked for confirmation that if it is a public road and there is no common area, a homeowners association would not be required.

Sallie Fahey replied affirmatively and agreed. She informed the board that she met with Mark Albers regarding some of these issues, and he was supposed to attend this meeting. She stated that she would contact him and make sure that he is present at the next Ordinance Committee meeting.

Steve Schreckengast asked for confirmation that one of the issues to be discussed with Mark Albers regarded 2 access points and that issue is still undecided.

Sallie Fahey replied affirmatively.

Sallie Fahey stated that unless something urgent comes up, the agenda for the next meeting would include continued discussion on RE procedures. She mentioned that at the August 17, 2003 meeting the agenda should include the R1C issue.

James Hawley stated if he is able to contact the 4 owners of the apartment complexes, he should have the map ready by the August 6, 2003 meeting.

Steve Schreckengast asked for explanation on the discussions regarding the R3 zoning. He asked how many units to an acre are allowed.

Sallie Fahey stated that it depended on the shape of the land and how many stories the buildings are.

Steve Schreckengast asked if the staff thought that discussion would be long.

James Hawley stated that the development community would be heavily involved in that discussion. He explained that this discussion would include an increase of open space.

Steve Schreckengast explained that a lot of the people concerned with the R3 issue would also be concerned with the R1C issue and wondered if there would be time to discuss both of them together.

Sallie Fahey suggested they be separate as she had another idea for a third type of R3, an R3 district that only allowed conversion of an existing building. She explained that this would involve an R3 district that would prohibit the destruction of the existing building. She stated that she was specifically referring to old or historic single-family homes that are converted to multiple dwellings.

Karl Rutherford mentioned including buildings like the Armory in that discussion.

Sallie Fahey stated that could be a possibility.

James Hawley stated that example would work well as a PD because of the limited parking.

Sallie Fahey informed the Commission that the RE zone and subdivision ordinance has gotten the attention of the State Deputy Commissioner of Agriculture. She stated that the Agricultural Land Resources Council has asked her to make a presentation regarding the RE zone and subdivision ordinance at their July 22, 2003.

Steve Schreckengast asked for clarification that they were looking at this in a positive light.

Sallie Fahey replied affirmatively.

Steve Schreckengast asked for clarification on which group she was referring to.

Sallie Fahey explained that this was a State appointed group, looking at the issue Statewide.

James Hawley said that this is a State agency that was established to help communities in rural areas deal with land use problems.

III.CITIZEN COMMENTS

IV. ADJOURNMENT

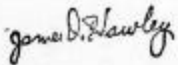
Mark Hermodson moved to adjourn. Steve Schreckengast seconded and the motion carried by voice vote.

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



James D. Hawley, AICP
Executive Director